

Rejection of Claims

35 U.S.C. § 102

The Examiner rejected Claims 1, 2, 8, 9, and 11-13 under 35 U.S.C. § 102(e) as being anticipated by Rosenfield et al. (U.S. Patent No. 6,358, 053). Applicant notes the Examiner has not included a rejection to Claim 10 so the Applicants believe that the rejection of Claims 1, 2, 8, 9 and 11-13 also applies to Claim 10. If Applicants' assumption is incorrect and any other rejection is contemplated, then Applicants respectfully request another non-final Office Action be issued.

Applicants have canceled Claims 1, 2 and 8-13 to expedite allowance of the remaining claims. The Applicants reserve the right to refile the canceled claims in a continuation application. Therefore, the Applicants request the Examiner withdraw this rejection.

STATEMENT CONCERNING COMMON OWNERSHIP

35 U.S.C. 103(c)

Claim 3

The Examiner rejected Claim 3 under 35 U.S.C. 103(a) as being unpatentable over Rosenfield et al. Applicants have filed this continuation to take advantage of 35 U.S.C. § 103(c) which is available to applications filed on or after November 29, 1999.

Under 35 U.S.C. 103(c):

“Subject matter developed by another person, which qualifies as prior art only under one or more or subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time of the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

This application and the Rosenfield et al. patent were, at the time the invention of this application was made, owned by UNext.com LLC. In addition, the Applicants have included a copy of the Assignment recordal for the Rosenfield et al. patent, which shows that UNext:com LLC is the owner or assignee of this patent.

Since Rosenfield et al. only qualifies as prior art in this 103 rejection under 102(e) where the subject matter and the claimed invention were owned by the same assignee, then Claim 3 cannot be rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenfield et al. The Rosenfield et al. reference cannot preclude patentability of this application. Therefore, Claim 3 should be allowed, because Rosenfield is not an appropriate reference for a 103 rejection. Applicants respectfully request that the Examiner withdraw this rejection.

Claims 4-7 and 42-56

In the Office Action, the Examiner rejected Claims 4-7 and 42-56 under 35 U.S.C. § 103(a) as being unpatentable over Rosenfield et al. in view of Frasson et al. (U.S. Patent No. 6, 341, 960). Applicants note that the Examiner has not included a rejection of Claims 57-61 so the Applicants believe that the rejection of Claims 4-7 and 42-56 also applies to Claims 57-61. If Applicants' assumption is incorrect and any other rejection is contemplated, then Applicants respectfully request another non-final Office Action be issued.

With regard to Claims 4-7, Applicants respectfully submit that the cited references, either individually or in combination do not describe or suggest the elements of Claims 4-7.

Claims 4-7 depend from independent Claim 3. Accordingly, Claims 4-7 are allowable for at least the same reasons as independent Claim 3.

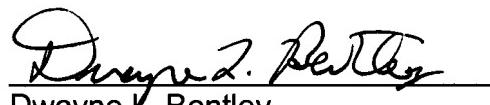
Claims 42 and 51 are independent claims relating to a method for providing an electronic course for instruction of a student via an electronics communication network. As discussed with Claim 3, the Rosenfield patent may not be used in a §103(a) rejection pursuant to §103(c). Thus, independent Claims 42 and 51 should be allowable. Claims 43-50, and 52-61 respectively depend from independent Claims 42 and 51. Accordingly, Claims 43-50 and 52-61 are allowable for at least the same reasons as independent Claims 42 and 51.

Reconsideration and allowance of Claims 3-7 and 42-61 is respectfully solicited.

Conclusion

Applicants submit that pending Claims 3-7 as amended and Claims 42-61 are patentable because Rosenfield et al. may be disqualified as a § 103(a) prior art under § 103(c). Claims 1, 2 and 8-13 have been cancelled to expedite the allowance of the remaining claims. Applicants reserve the right to refile the canceled claims in a continuation application. Therefore, in view of the above amendments, Applicants respectfully submit that this application is in condition for allowance and such action is earnestly requested. If for any reason, however, the Examiner feels that a telephone interview would be helpful in resolving any remaining issues, the Examiner is respectfully requested to contact Applicants' undersigned attorney.

Respectfully submitted,


Dwayne L. Bentley
Dwayne L. Bentley
Registration No. 45,947
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



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